THE HON'BLE SRI JUSTICE B.PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE D.APPA RAO

-

WRIT APPEAL NO.190 OF 2005

Date: 26-04-2006

Between:

Setty Gangadhara Swamy …Appellant

And

Secretary, Social Welfare Department and

Others …Respondents

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THE HON'BLE SRI JUSTICE B.PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE D.APPA RAO

WRIT APPEAL NO.190 OF 2005

J U D G M E N T ***(Per the Hon'ble Sri B.Prakash Rao, J):***

Heard learned counsel for both sides.

The appellant is the unsuccessful writ petitioner, who filed this appeal, *inter alia*, seeking to assail order dated 02-09-2004 passed by the learned Single Judge dismissing Writ Petition No.18204 of 1993, wherein he sought for a writ of *Mandamus* declaring the action on the part of the respondents herein in cancelling his caste certificate as bad, illegal and void.

Though several contentions have been raised on behalf of both sides, the main plea raised by the appellant is to the effect that he belongs to Scheduled Tribe, whereas that is being disputed by the other side stating that the appellant does not belong to Scheduled Tribe. Even, in the counter-affidavit filed in the writ petition, it was stated that during the local enquiry by the Revenue Divisional Officer, Paderu, it was reported that the fact to which caste the writ petitioner-appellant belongs to either 'pydi' or 'valmiki' was not clearly established. On the face of such statements, it cannot be said that there was any proper enquiry conducted as such in regard to the caste to which the appellant belongs to. The learned Single Judge, having considered the rival submissions made by both sides, did not find in favour of the appellant. However, the fact remains that apparently there was no proper enquiry in any allegation as such by any competent authority after following due procedure and also by giving opportunity to the appellant. Hence, taking into consideration the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), wherein a regular procedure is contemplated for going into such questions and which contemplates the authorities to follow certain procedure after giving an opportunity to the parties concerned to decide on the question of caste, the writ appeal is allowed and the order of the learned Single Judge is set aside and the matter is remitted to the respondents to take up the proceedings afresh duly following the procedure as contemplated under the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 and pass orders on

merits, in accordance with law, after giving notice and opportunity to the parties concerned. The entire exercise shall be completed within a period of eight weeks from today. No order as to costs.

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(B.PRAKASH RAO,J)

Dated 26th April, 2006

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(D.APPA RAO,J)

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